



New South Wales

Crimes Legislation Amendment (Mobile Phones in Places of Detention) Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988*, the *Crimes (Administration of Sentences) Act 1999* and the *Crimes (Administration of Sentences) Regulation 2001* to prohibit inmates using mobile phones in places of detention.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendment to the Acts and a Regulation set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1.1 Amendment of Crimes (Administration of Sentences) Act 1999

Section 56A of the *Crimes (Administration of Sentences) Act 1999* provides that the general manager of a correctional centre or a Visiting Magistrate dealing with a charge relating to a correctional centre offence arising out of the possession of a mobile phone or any part of it, a mobile phone SIM card or any part of it, or a mobile phone charger or any part of it may, if satisfied beyond reasonable doubt that the inmate is guilty of the offence, order that an inmate be deprived, for up to 6 months, of such withdrawable privileges as the general manager or Visiting Magistrate may determine.

Schedule 1.1 makes a consequential amendment. It amends section 56A to provide that the general manager of a correctional centre or a Visiting Magistrate may make such orders relating to the deprivation of withdrawable privileges in relation to a correctional centre offence arising out of the use (in addition to the possession) of a mobile phone or any part of it, a mobile phone SIM card or any part of it, or a mobile phone charger or any part of it.

Schedule 1.2 Amendment of Crimes (Administration of Sentences) Regulation 2001

Clause 113B of the *Crimes (Administration of Sentences) Regulation 2001* provides that an inmate must not have in his or her possession in a place of detention a mobile phone or any part of it, a mobile phone SIM card or any part of it, or a mobile phone charger or any part of it. Contravention of the clause is a correctional centre offence (see clause 116 of, and Schedule 2 to, that Regulation) which gives rise to the correctional centre disciplinary measures set out in the *Crimes (Administration of Sentences) Act 1999* and the Regulation.

Schedule 1.2 [1] amends clause 113B to expand the provision to also prohibit an inmate using a mobile phone, a mobile phone SIM card or a mobile phone charger (or any part of any of those things). The expanded provision will continue to be a correctional centre offence giving rise to the same correctional centre disciplinary measures. **Schedule 1.2 [2]** makes a consequential amendment.

Schedule 1.3 Amendment of Summary Offences Act 1988

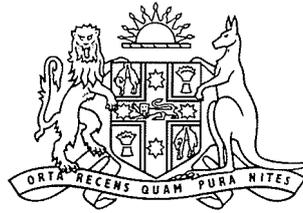
Section 27DA of the *Summary Offences Act 1988* makes it an offence for an inmate, without reasonable excuse (proof of which lies on the inmate), to have in his or her possession in a place of detention a mobile phone or any part of it, a mobile phone SIM card or any part of it, or a mobile phone charger or any part of it. The offence carries a maximum penalty of imprisonment for 2 years or 50 penalty units (currently \$5,500), or both.

Crimes Legislation Amendment (Mobile Phones in Places of Detention) Bill 2007

Explanatory note

Schedule 1.3 amends section 27DA to expand the offence to also prohibit an inmate using a mobile phone, a mobile phone SIM card or a mobile phone charger (or any part of any of those things). The expanded offence will continue to carry the same maximum penalty of imprisonment for 2 years or 50 penalty units (currently \$5,500), or both.

First print



New South Wales

Crimes Legislation Amendment (Mobile Phones in Places of Detention) Bill 2007

Contents

| | Page |
|------------------------------------|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| 3 Amendment of Acts and Regulation | 2 |
| 4 Repeal of Act | 2 |
| Schedule 1 Amendments | 3 |



New South Wales

Crimes Legislation Amendment (Mobile Phones in Places of Detention) Bill 2007

No. , 2007

A Bill for

An Act to amend the *Summary Offences Act 1988*, the *Crimes (Administration of Sentences) Act 1999* and the *Crimes (Administration of Sentences) Regulation 2001* to prohibit inmates using mobile phones in places of detention.

| | |
|--|----------|
| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Crimes Legislation Amendment (Mobile Phones in Places of Detention) Act 2007</i> . | 3 4 |
| 2 Commencement | 5 |
| This Act commences on the date of assent to this Act. | 6 |
| 3 Amendment of Acts and Regulation | 7 |
| The Acts and Regulation specified in Schedule 1 are amended as set out in that Schedule. | 8 9 |
| 4 Repeal of Act | 10 |
| (1) This Act is repealed on the day following the day on which this Act commences. | 11 12 |
| (2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act. | 13 14 |

| | | |
|-------------------|---|----------|
| Schedule 1 | Amendments | 1 |
| | (Section 3) | 2 |
| 1.1 | Crimes (Administration of Sentences) Act 1999 No 93 | 3 |
| | Section 56A Penalty for use or possession of a mobile phone | 4 |
| | Insert “use or” before “possession” in section 56A (1). | 5 |
| 1.2 | Crimes (Administration of Sentences) Regulation 2001 | 6 |
| [1] | Clause 113B Inmate use or possession of a mobile phone | 7 |
| | Insert “use or” before “have in his or her possession”. | 8 |
| [2] | Schedule 2 Correctional centre offences | 9 |
| | Omit “Possess mobile phone, mobile phone SIM card or mobile phone charger” from the matter relating to clause 113B. | 10 11 |
| | Insert instead “Use or possess mobile phone, mobile phone SIM card or mobile phone charger”. | 12 13 |
| 1.3 | Summary Offences Act 1988 No 25 | 14 |
| | Section 27DA Inmate use or possession of a mobile phone | 15 |
| | Insert “use or” before “have in his or her possession” in section 27DA (1). | 16 |